

# Notice of Allowability

Application No.

09/241,853

Examiner

Joseph R. Pokrzywa

Applicant(s)

KOHLER ET AL.

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## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 7/27/04.
2. ☒ The allowed claim(s) is/are 8-11,13,16,21,24,25,27-30,34,72,73,79 and 98 (renumbered as claims 1-18, respectively).
3. ☒ The drawings filed on 16 May 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 7/27/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

*Joseph R. Pokrzywa*  
JOSEPH R. POKRZYWA  
EXAMINER  
ART UNIT 2622

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's amendment was received on 7/27/04, and has been entered and made of record. Currently, **claims 8-11, 13, 16, 21, 24, 25, 27-30, 34, 72, 73, 79, and 98** are pending.

### *Information Disclosure Statement*

2. The reference listed in the Information Disclosure Statement submitted on 7/27/04 has been considered by the examiner (see attached PTO-1449).

### *Allowable Subject Matter*

3. **Claims 8-11, 13, 16, 21, 24, 25, 27-30, 34, 72, 73, 79, and 98** are allowed (renumbered as **claims 1-18, respectively**).

4. The following is an examiner's statement of reasons for allowance:

Regarding **claims 8 and 98 (renumbered claims 1 and 18, respectively)**, in the examiner's opinion, it would not have been obvious to one of ordinary skill in the art to have the software application programming interface (API), as claimed, include the features of receiving a call to a function from the application program, and calling a measuring device driver based on the called function to operate a color measurement device, so that the API provides the application program with flow control data of the number of times that the function must be called. The closest prior art, previously indicated as Chao (U.S. Patent Number 6,404,517) and Nakano (U.S. Patent Number 5,828,781), each fail to teach these limitations. Particularly,

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Nakano fails to teach of calling a measuring device driver based on a called function from an application program, as well as the limitations previously indicated in the Office action dated 2/23/04, which claim a move-to-patch function and a make-measurement function. Further, Chao fails to expressly disclose if an API is provided with process steps for receiving a call to a function from the application program and calling a measuring device driver based on the called function to operate a color measurement device. Because of these features, which were added in the amendment dated 7/27/04, the claims are rendered allowable.

Regarding *claims 27 and 72 (renumbered claims 10 and 15, respectively)*, in the examiner's opinion, it would not have been obvious to one of ordinary skill in the art to have the process steps, as claimed, further include the limitations of providing the application program with a call-again value in a case that the move-to patch function needs to be called multiple times to complete the relative positioning of the color measuring sensors, and providing the application program with a call-again value in a case that the make-measurement function needs to be called multiple times to complete making the color measurement of the color patch and has not been called the multiple times. The closest prior art, previously noted as Chao (U.S. Patent Number 6,404,517) and Nakano (U.S. Patent Number 5,828,781), each fail to particularly teach these limitations. Because of this, the claims are rendered allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Drawings***

5. The drawings filed on 5/16/03 are acceptable by the by the examiner.

***Citation of Pertinent Prior Art***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

**Shiraiwa** (U.S. Patent Number 6,611,621) discloses a color matching method that utilizes an API, but fails to teach of interfacing an application program and plural different types of color measuring devices each having at least one color measuring sensor.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Pokrzywa whose telephone number is (703) 305-0146. The examiner can normally be reached on Monday-Friday, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on (703) 305-4712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph R. Pokrzywa  
Examiner  
Art Unit 2622

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